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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,900	09/27/2001	Yasuhiro Arai	FUJX 19.040	3229
7590	11/16/2006		EXAMINER	
Rosenman & Colin LLP 575 Madison Avenue New York, NY 10022-2585			HAN, CLEMENCE S	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/964,900	ARAI, YASUHIRO	
	Examiner	Art Unit	
	Clemence Han	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 August 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 5 is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) 3,4 and 6 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application
6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 1 and 2 are rejected under 35 U.S.C. 102(a) as being anticipated by Cole et al. (US 7,006,445).

Regarding to claim 1, Cole teaches an xDSL modem used for digital communication through a subscriber line connecting a local switch and a customer premises equipment, and which includes a digital transmitting unit for performing the digital communication using a data signal, the data signal being separated by a splitter from an analog control signal and a speech signal used for a telephone communication by use of an analog transmitting unit, the xDSL modem comprising; an evaluating unit for evaluating, prior to a start of a provision of a broadband communication service, a transmission characteristic of said subscriber line based on an influence deriving from the transmission characteristic of the subscriber line appearing by a reception result of a signal transmitted from said local switch through said subscriber line (Column 6 Line 33-37); and a reporting unit for sending out said transmission characteristic obtained by said evaluating unit to a network through said analog transmitting unit (Column 6 Line 52-56).

Regarding to claim 2, Cole teaches said evaluating unit includes: a requiring unit for sending out a predetermined requiring signal to the network through the analog transmitting unit 302; and an analyzing unit for analyzing the influence deriving from the transmission characteristic of the subscriber line appearing in a reception result of an analog signal according to receipt of a response signal sent back from a provider offering a broadband communication service in response to said requiring signal 303, the analog signal being generated by said local switch directly connected to said xDSL modem and being transmitted through said subscriber line, and for obtaining an evaluation barometer indicating said transmission characteristic of said subscriber line 304.

Allowable Subject Matter

3. Claims 3, 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claim 5 is allowed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C. H.

Clemence Han
Examiner
Art Unit 2616



HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600